

NOT FOR CITATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CURTIS REDMOND,

Petitioner,

v.

J. SOLIS, Warden,

Respondent.

No. C 04-0160 PJH (PR)

**DENIAL OF CERTIFICATE OF
APPEALABILITY**

This is a habeas case under 28 U.S.C. § 2254 filed pro se by a state prisoner. The court denied the petition. Petitioner has filed a notice of appeal and a motion for a certificate of appealability.

A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal). See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy this standard. See *id.* § 2253(c)(3). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 120 S.Ct. 1595, 1604 (2000).

This was not a close case. Reasonable jurists would not find the court's assessment of the constitutional claims debatable or wrong. For the reasons set out in the decision denying the petition, the motion for a certificate of appealability (document number 13 on

1 the docket) is **DENIED**.

2 The clerk shall transmit the file, including a copy of this order, to the Court of
3 Appeals. See Fed. R.App.P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir.
4 1997). Petitioner may then ask the Court of Appeals to issue the certificate, see R.App.P.
5 22(b)(1), or if he does not, the notice of appeal will be construed as such a request, see
6 R.App.P. 22(b)(2).

7 **IT IS SO ORDERED.**

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9 Dated: August 31, 2006.



PHYLLIS J. HAMILTON
United States District Judge